

REMARKS

Claims 1-16 are currently pending in the instant patent application. Applicants have amended claims 4 and 5. Thus, with this amendment and response, Applicants' instantly claimed invention is directed to devices of any kind that are provided with a surface layer that includes a radioactive nuclide (see specification page 5, paragraph 18). In devices of the present invention the surface layer is a self-assembled layer that is chemically anchored to the surface of the substrate without the need for any intermediate layer between the substrate and the surface layer (see specification page 5, paragraph 18).

Claim Rejections - 35 U.S.C. § 112

The Examiner has rejected claim 5 under 35 U.S.C. § 112 as being indefinite for a) being in improper form for a Markush group and b) lacking sufficient antecedent basis. Applicants have amended claim 5 to address the Examiner's concerns. Applicants respectfully submit that claim 5 is now in condition for allowance.

Claim Rejections - 35 U.S.C. § 102(e)

The Examiner has rejected claims 1, 2, 4, 5, 7, 9-13 and 16 under 35 U.S.C. § 102(e) as allegedly being anticipated over Sorensen et al. US 6,500,108 B1 ("Sorensen"). The Examiner asserts that the instantly claimed invention lacks novelty because Sorensen discloses devices such as a stent comprising a self-assembling surface layer containing radioactive nuclides. Applicants respectfully submit that there is a substantial difference between the instantly claimed invention and Sorensen. The key difference is that in Sorensen an intermediary layer is necessary between the substrate and the self-assembling surface layer (see Sorensen column 4, lines 8-15; column 5, lines 17-20). Sorensen requires a layer of gold between the self-

assembling surface layer and the substrate, whereas the instantly claimed invention requires no such intermediary; the self-assembling layer of the instantly claimed invention is directly anchored to the substrate (see specification page 5, paragraph 18).

Applicants submit that the difference between having an intermediary layer and having the self-assembling surface layer directly anchored to the substrate through chemical means is not trivial. The instantly claimed devices are substantially different from the devices disclosed in Sorensen. These differences are that the devices of the present invention are smaller than Sorensen (see specification page 9, paragraph 26), more flexible (see specification page 9, paragraph 26) and more uniformly coated with the self-assembling surface layer (see specification page 7, paragraph 21). Thus, contrary to the Examiner's assertion, claims 1, 2, 4, 5, 7, 9-13, and 16 are not anticipated by Sorensen.

Claim Rejections - 35 U.S.C. § 103

The Examiner has rejected claims 3, 6, 8, 14, and 15 over 35 U.S.C. § 103(a) as allegedly being obvious over Sorensen in view of Satz WO 99/51299 ("Satz"). The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the substrate of Sorensen with the materials described in Satz to devise Applicants' invention. However, Applicants submit that the device described in Satz is a stent composed of a single component system containing radioactive nuclides (see Satz page 15, lines 13-18). Satz does not teach or suggest that the stent contains a substrate covered by a surface layer that contains radioactive nuclides. Applicants submit that, as opposed to the instantly claimed invention, wherein a surface layer containing a radionuclide is anchored to a substrate, the Satz invention

discloses that the radioactive nuclides are contained within a single component system (see Satz page 15, lines 13-18). Moreover, as discussed above, Applicants' submit that the self-assembling surface layer described by Sorensen depends upon an intermediary layer between the substrate and the self-assembling surface layer (see Sorensen column 4, lines 8-15; column 5, lines 17-20). Thus, Sorensen is a three component system.

The combination of Sorensen and Satz do not teach or suggest Applicants' instantly claimed invention, which is a device comprising a surface layer that includes a radioactive nuclide (see specification page 5, paragraph 18). Sorensen describes a device that comprises both an intermediary layer and a self-assembling surface layer (see Sorensen column 4, lines 8-15; column 5, lines 17-20). Satz describes a single unit device composed of a material in which the radionuclide is contained; there is no surface layer (see Satz page 15, lines 13-18).

There is no teaching or suggestion from Sorensen and/or Satz to make the novel device of Applicants' invention. Sorensen's device necessitates: a) a surface (substrate) upon which to attach b) an intermediary layer upon which to attach c) the radionuclide containing self-assembling layer (see Sorensen column 4, lines 8-15; column 5, lines 17-20). Satz's device is simply a single component device composed of a material in which the radionuclide is contained, without any surface layer (see Satz page 15, lines 13-18). Applicant's novel device is composed of two components: a) a substrate upon which to anchor; and b) the radionuclide containing surface layer. Applicants respectfully submit that neither Sorensen nor Satz, nor a combination thereof, would teach or suggest to one skilled in the art, as of the filing date of Applicants invention, to use a substrate from Satz to anchor a radioactive nuclide containing surface layer, rather than anchoring radioactive nuclides

throughout the substrate. Moreover, Applicants respectfully submit that neither Satz, nor Sorensen, nor a combination thereof, would suggest removal of Sorensen's intermediate layer. Thus, contrary to the Examiner's assertion, claims 3, 6, 8, 14, and 15 are not obvious over Sorensen in view of Satz.

References Not Relied Upon

The Examiner cites certain prior art made of record and not relied upon. None of these references taken alone or in combination describe the Applicants' instantly claimed invention.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested response, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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